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MEDIA
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William Caton
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

SEP - 8 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Petition for Declaratory Relief in the Form of
Clarification of Section 317 of the Communications
Act of 1934 Regarding Sponsorship Identification
for Infomercials, RM No. 7984

Dear Mr. Caton:

The Center for the Study of Commercialism, Center for Media Education, Consumer Federation of America and Telecommunications Research and Action Center ("Petitioners") submit this letter as a supplement to their January 3, 1992 Petition for Declaratory Relief in the above-referenced matter.

The purpose of this supplement is to ask that the Commission issue an immediate public notice advising broadcast licensees and cable operators carrying the "Main Floor" program that contemporaneous sponsorship identification of each sponsored segment on that program may be required to insure that viewers are fully and fairly informed as to the true sponsorship of the matter carried on that show.

The January 3, 1992 Petition for Declaratory Relief asks, *inter alia*, that the Commission issue a declaratory ruling that the current practice of airing program length commercials, or infomercials, without a continuous sponsorship identification violates Section 317 of the Communications Act and the Commission's rules requiring full and fair disclosure of sponsorship. 47 CFR §§ 73.1212(e), 76.221(e). In the alternative, Petitioners request that the Commission initiate a rulemaking to consider revising its rules to require continuous sponsorship identification for program length commercials.

The imminent broadcast of this new infomercial program makes swift resolution of the subject Petition all the more urgent. According to news reports, the syndicated program "Main Floor" will make its broadcast debut on September 11. "Is it a TV Show? Or Is It Advertising?", *Wall Street Journal*, August 10, 1994 at B1 (Attachment 1). The program, which purports to be an update on the latest fashion and beauty trends, is actually a program length commercial in which viewers are taken to department stores and outdoors and "steer[ed]...to specific merchandise that sponsors have paid to promote on the show." *Id.*

Sponsors, who pay roughly \$25,000 for a two to three minute spot on "Main Floor," are fully aware that the show is intended as a vehicle in which to sell their products. *Id.* On the other hand, confused television viewers "won't know who paid for time on 'Main Floor' until the final credits roll." *Id.* To make matters more confusing for viewers, the show will break for local commercials at regular intervals, like most news and entertainment programming. *Id.*

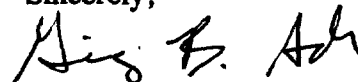
It would be difficult to find a television program that runs more contrary to the purpose of Section 317 and to Section 73.1212's command that a sponsorship announcement "fully and fairly disclose" the true identity of a sponsor. "Main Floor's" entire purpose appears to be to confuse viewers into thinking that it is a news-like program, and not a program length commercial paid for by many different advertisers. Unlike even those infomercials that contain sporadic sponsorship identifications, "Main Floor" reveals its true intent only at the very end of the program, when many viewers may have already changed the channel, or turned off their sets.

Requiring a continuous sponsorship identification during "Main Floor" and other infomercials would ensure that viewers are aware, at *all* times, that these programs are actually long-form paid advertisements. As Petitioners have suggested, the identification may take a number of forms, as long as it is recognizable and understandable to viewers. *Petition for Declaratory Relief* at 19. Such an identification would not unreasonably burden broadcasters and cable operators and would, at the same time, advance the public's right to know what it is watching.

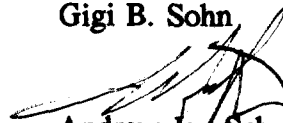
For twelve years, the Commission has looked away as broadcasters and programmers have taken advantage of the marketplace's inability to control commercialization. "Main Floor" and other recent deceptive commercials are just more examples of a nefarious breed which will only get worse until the Commission takes prompt action.

Chairman Hundt has spoken on several occasions of a "new social compact" between broadcasters and the public. That compact should contain, at the very least, a guarantee that the public will not be deceived by broadcasters and their advertisers. Granting the relief Petitioners have requested would be a good first step towards ensuring that broadcasters uphold their end of the bargain.

Sincerely,



Gigi B. Sohn



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Media Access Project



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ADVERTISING

Is It a TV Show? Or Is It Advertising?

By TERI AGINS

Staff Reporter of THE WALL STREET JOURNAL

Until now, television viewers have usually been able to tell the difference between a scheduled program and the commercials within it.

But a new weekly program, "Main Floor," makes that line very blurry indeed. The syndicated half-hour show, which has its debut Sept. 11, takes viewers into department stores to show them the latest fashion and beauty trends, while quietly steering them to specific merchandise that sponsors have paid to promote on the show. The show will usually air on Sundays on as many as 116 broadcast stations, including network affiliates, and will break for local commercials at regular intervals. Viewers won't know who paid for time on "Main Floor" until the final credits roll.

Sponsors pay roughly \$25,000 for a two- to three-minute spot on "Main Floor." Alton Entertainment, which produces the show, confirms that it has already lined up a number of sponsors, including VF Corp.'s Lee jeans, Chanel cosmetics and Jou Jou sportswear. Alton says such paid spots will make up about one-third of each show.

In a fast-paced mix of features and advertisements, episodes of "Main Floor" will offer advice on how to buy a winter coat, show beauty makeovers for women of color and pick the hot fashion items for each season. Actress Nancy Stafford, of "Matlock" fame, will take viewers through department stores and outdoors to such



Lancome cosmetics and Paloma Picasso bought time on the pilot of 'Main Floor'

trendy sites as Miami's South Beach. Shoe designer Kenneth Cole paid for time on the pilot program, as did Paloma Picasso, who talks about her new men's fragrance. In the same episode, a Lancome representative demonstrates how to achieve the "no makeup" natural look.

Marketers seem clear about the show's purpose. During its paid spot, a Lee representative will talk about the problems women have buying jeans that fit, while also pushing its fall line. "We've introduced seven new fits in jeans, and this show gives us an opportunity to explain the fit, which a 30-second commercial won't allow us to do," says Michael Robertson, director of marketing communications for Lee. "This is cheaper than doing a 30-second spot on traditional TV and gives us

more exposure."

But consumers may end up confused, and consumer advocates are wary. Such programs are "an expansion of the very sleazy trend where advertisers are trying to sneak advertising into all kinds of media and pretend it's not advertising," says Michael Jacobson, founder of the Center for the Study of Commercialism, a nonprofit consumer advocacy organization. "It's not something that needs to be outlawed, but audiences need to be told what they are seeing is advertising."

But the producer of "Main Floor" defends the marketing segments as a financial necessity. "Sponsor participation guarantees the company can produce a high-quality show," says Michael Young.

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MARKETING & MEDIA

ADVERTISING

Question: Is It a TV Program? Or Is It Advertising? Answer: Both

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president of Alton Entertainment. Mr. Young contends that Alton very clearly discloses advertisers' involvement in the program credits.

Most apparel companies concentrate on print advertising rather than on television commercials and are excited about the promotional opportunities of "Main Floor." Some fashion companies have recently managed to get TV exposure through video news releases, which get picked up on news feeds and entertainment shows, but these are costly — about \$100,000 per video.

Chanel has high hopes for "Main Floor" and views it as a possible replacement for video news releases. "When you do a video news release you can't be assured that it will get on the air," says Susan Duffy, a Chanel spokeswoman. But "Main Floor" is a sure thing, a newsmagazine format which will bring consumers into the stores.

Ms. Duffy also likes the control Chanel will have with "Main Floor." She says she had script approval and also reviewed the finished tape for a pitch about Chanel's new men's fragrance, *Egoiste Platinum*. "There were some computer graphics we didn't like, and we had them changed," she says.

An Alton spokesman says the company is "totally responsible for every frame in 'Main Floor' and maintains editorial control and has final approval." Sponsors, he adds, do get to see the final version of advertorials before they air and can request changes.

In addition to the paid spots within the program, the producers of "Main Floor" want to attract commercials from local department stores. Already, the ABC affiliate in Chicago has signed Carson Pirie Scott, a Milwaukee-based chain of 59 department stores, to buy three or four commercials each week on "Main Floor."

"Our effort is to bring people into our stores," says Edward Carroll, executive vice president of marketing for Carson Pirie Scott. "If Lee or Estee Lauder talks two or three minutes about the trends, during the commercial break we will localize the message by telling them that if you are interested in the product you saw, we are selling it" at Carson's.

The marketing doesn't stop at the end of each show. Viewers can call an 800 number and order a \$2 newsletter that will tell them where to buy products featured on the show. Sponsors will also advertise in the newsletter, which will include fashion-related articles.

Helping to bolster the show's credibility will be unpaid appearances by fashion-magazine editors. *Cosmopolitan* magazine's beauty and fashion editors have filmed segments for the show and plan to use the "Main Floor" appearances to spotlight topics in the magazine's latest issue. "The publicity is like free advertising, an opportunity for us to get more exposure for the magazine," says Katharine Carroll, *Cosmopolitan*'s publicist.